

1-71600 N/C

Downers Grove Groundwater Site

PROMPT REPLY NECESSARY

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Mr. Paul Nowicki  
Burlington Northern & Santa Fe Railroad  
547 West Jackson  
Chicago, IL 60061

Re: Request for Information Pursuant to Section 104 of CERCLA  
for the Downers Grove Groundwater Site in Downers Grove,  
DuPage County, Illinois

Dear Mr. Nowicki:

This letter seeks your cooperation in providing information and documents relating to the contamination of the the Downers Grove Groundwater Site in Downers Grove, DuPage County, Illinois ("Site"). A Superfund site is a site contaminated with high levels of hazardous substances that may present a threat to human health or the environment.

We encourage you to give this matter your immediate attention and request that you provide a complete and truthful response to this Information Request and attached questions (Attachment B) within twenty-one (21) days of your receipt of this letter.

The United States Environmental Protection Agency ("U.S. EPA") is investigating the release or threat of release of hazardous substances, pollutants, or contaminants at the Site. U.S. EPA is seeking to obtain information concerning the generation, storage, treatment, transportation, and methods used to dispose of such substances that have been, or threaten to be, released from the Site. U.S. EPA will study the effects of these substances on the environment and public health. In addition, U.S. EPA will identify activities, materials, and parties that contributed to contamination at the Site. U.S. EPA believes that you might have information which may assist the Agency in its investigation of the Site.

The U.S. EPA is currently investigating the source of a contaminated groundwater plume in Downers Grove, Illinois. Water

samples taken from several private wells have tested above the maximum contaminant level (MCL) of 5 parts per billion for trichloroethylene (TCE) & tetrachloroethylene (PCE). The source or sources of the plume are believed to originate in the Ellsworth Industrial Park which is bounded by the BN&SF railroad tracks (approximately 5000 south) to the north, Belmont Road (2200 west) on the east, Maple Avenue (approximately 2900 west) on the west and 63<sup>rd</sup> Street to the south.

This information request is specific to a train derailment which occurred Sunday, March 4, 1973 in Downers Grove, Illinois at the Belmont Avenue crossing. According to the *Downers Grove Reporter*, 18 cars out of 97 derailed on a Chicago to Seattle train. U.S. EPA investigators have learned that rail cars were buried at the site of the derailment.

#### Description of Legal Authority

The federal "Superfund" law (the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601, et seq., commonly referred to as "CERCLA" and "Superfund") gives U.S. EPA the authority to, among other things: (1) assess contaminated sites, (2) determine the threats to human health and the environment posed by each site, and (3) clean up those sites in the order of the relative threats posed by each.

#### Information Request

Under Section 104(e)(2) of CERCLA, 42 U.S.C. §9604(e)(2), U.S. EPA has broad information gathering authority which allows U.S. EPA to require persons to furnish information or documents relating to:

- (A) The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility or transported to a vessel or facility.
- (B) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility.
- (C) Information relating to the ability of a person to pay for or to perform a cleanup.

While U.S. EPA seeks your cooperation in this investigation, compliance with the Information Request is required by law. Please note that false, fictitious, or fraudulent statements or

representations may subject you to civil or criminal penalties under federal law.

Some of the information U.S. EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold the information upon that basis. If you wish U.S. EPA to treat the information confidentially, you must advise U.S. EPA of that fact by following the procedures outlined in Attachment A, including the requirement for supporting your claim for confidentiality.

If you have information about other parties who may have information which may assist the Agency in its investigation of the Site or may be responsible for the contamination at the Site, that information should be submitted within the time frame noted above.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. §3501 et seq.

Instructions on how to respond to the questions in Attachment B to this document are described in Attachment A. Your response to this Information Request should be mailed to:

U.S. Environmental Protection Agency  
Carol Ropski  
Emergency Enforcement & Support Section, SE-5J  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

If you have additional questions about the history of the Site, the nature of the environmental conditions at the Site, or the status of cleanup activities, please contact Steven Faryan at (312) 353-9351. However, if you have specific questions about the Information Request, please contact Carol Ropski at (312) 353-7647. Legal questions should be addressed to Thomas Krueger at (312) 886-0562.

We appreciate and look forward to your prompt response to this Information Request.

Sincerely,

William D. Messenger, Chief  
Emergency Enforcement and Support Section

Enclosures

cc: Kendra Pohn, Illinois Attorney General Office  
Tom Crause, Illinois Environmental Protection Agency

bcc: Tom Krueger, ORC (C-14J)  
Steve Faryan, (SE-5J) or (SE-GI) or (5-SEDO)  
John Maritote, EESS (SE-5J)  
Carol Ropski, EESS (SE-5J)  
Denise Battaglia, Public Affairs, (P-19J)  
Records Center (SMR-7J)  
ERB Read File  
Joe Malek, CI, (SE-5J)

Attachment A  
Information Request

Instructions

1. Answer Every Question Completely. A separate response must be made to each of the questions set forth in this Information Request. For each question contained in this letter, if information responsive to this Information Request is not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
2. Number Each Answer. Precede each answer with the corresponding number of the question and the subpart to which it responds.
3. Provide the Best Information Available. Provide responses to the best of Respondent's ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to the Respondent will be considered non-compliance with this Information Request.
4. Identify Sources of Answer. For each question, identify (see Definitions) all the persons and documents that you relied on in producing your answer.
5. Continuing Obligation to Provide/Correct Information. If additional information or documents responsive to this Request become known or available to you after you respond to this Request, U.S. EPA hereby requests pursuant to Section 104(e) of CERCLA that you supplement your response to U.S. EPA.
6. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42.U.S.C. §§9604(e)(7)(E) and (F), and Section 3007(b) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6927(b), and 40 C.F.R. §2.203(b).

If you make a claim of confidentiality for any of the information you submit to U.S. EPA, you must prove that claim.

For each document or response you claim confidential, you must separately address the following points:

1. the portions of the information alleged to be entitled to confidential treatment;
2. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
3. measures taken by you to guard against the undesired disclosure of the information to others;
4. the extent to which the information has been disclosed to others; and the precautions taken in connection therewith;
5. pertinent confidentiality determinations, if any, by U.S. EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
6. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise nonconfidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all non-confidential information, including any redacted versions of documents, is in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to U.S. EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by U.S. EPA only to the extent permitted by Section 104(e) of CERCLA. If no such claim accompanies the information

when it is received by U.S. EPA, then it may be made available to the public by U.S. EPA without further notice to you.

7. Disclosure to U.S. EPA Contractor. Information which you submit in response to this Information Request may be disclosed by U.S. EPA to authorized representatives of the United States, pursuant to 40 C.F.R. §2.310(h), even if you assert that all or part of it is confidential business information. Please be advised that U.S. EPA may disclose all responses to this Information Request to one or more of its private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information which you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within fourteen (14) days of receiving this Information Request.

8. Personal Privacy Information. Personnel and medical files, and similar files, the disclosure of which to the general public may constitute an invasion of privacy, should be segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information."

9. Objections to Questions. If you have objections to some or all the questions within the Information Request letter, you are still required to respond to each of the questions.

#### Definitions

The following definitions shall apply to the following words as they appear in this Information Request.

1. The term "**documents**" includes any written, recorded, computer-generated, or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control, or known by you to exist, including originals, all prior drafts, and all non-identical copies.

2. The term "**identify**" means, with respect to a natural person, to set forth: (a) the person's full name; (b) present or last known business and home addresses and telephone numbers; (c) present or last known employer (include full name and address) with title, position or business.

3. With respect to a corporation, partnership, or other business entity (including a sole proprietorship), the term "**identify**" means to provide its full name, address, and



affiliation with the individual and/or company to whom/which this request is addressed.

4. The term "**person**" shall include any individual, firm, unincorporated association, partnership, corporation, trust, or other entity.

5. The term "**you**" or "**Respondent**" shall mean the Burlington Northern & Santa Fe Railroad (BNSF). The term "you" also includes any officer, managers, employees, contractors, trustees, successors, assigns, and agents of Respondent.

6. The term "**hazardous substance**" shall have the same definition as that contained in Section 101(14) of CERCLA, and includes any mixtures of such hazardous substances with any other substances, including mixtures of hazardous substances with petroleum products or other nonhazardous substances.

7. The term "**March 4, 1973 train derailment**" or "**March 4, 1973 train that derailed**" shall refer to the Chicago to Seattle train which derailed at Belmont Avenue in Downers Grove, DuPage County, Illinois on March 4, 1973.

Attachment B  
Requests

- ~~1~~ 14. **Identify** all **persons** consulted in the preparation of the answers to these Information Requests.
- ~~2~~ 15. Identify all **documents** consulted, examined, or referred to in the preparation of the answers to these Requests, and provide copies of all such documents.
- ~~3~~ 16. If **you** have reason to believe that there may be persons able to provide a more detailed or complete response to any Information Request or who may be able to provide additional responsive documents, identify such persons.
4. Provide a copy of bills of lading relating to all cargo carried by the BNSF train that was involved in the March 4, 1973 train derailment.
5. Describe the contents of all rail cars on the March 4, 1973 Chicago to Seattle train.
6. How many rail cars were buried as a result of the March 4, 1973 train derailment?
7. Describe the contents of the buried rail cars resulting from the March 4, 1973 train derailment.
8. Describe the exact location of the buried cars resulting from the March 4, 1973 train derailment.
9. Provide a copy of all photos of the March 4, 1973 train derailment.
10. Provide all internal and external reports written about the March 4, 1973 train derailment.
11. Provide copies of all claims made by the shippers with cargo on the March 4, 1973 train that derailed.
12. Identify all **hazardous substances** transported on the March 4, 1973 Chicago to Seattle train.
13. Provide the following information regarding a maintenance yard that was run by BNSF in the Downers Grove, Illinois area.

- a. Where was the maintenance yard located? Provide a map that identifies the location of the yard.
- b. What type of activities were performed at the maintenance yard?
- c. List the chemicals that were used at the maintenance yard.
- d. List the time frame that the maintenance yard was used.

**REMOVAL PROGRAM  
INFORMATION REQUESTS  
ROUTING SLIP  
(REVISED OCTOBER 1999)**

Downers Grove Groundwater Site  
(SITE NAME)

**Please sign the Yellow** and check your name off this page.  
Then pass the document on to the next name.

**Do not sign this page, SIGN THE YELLOW**

	NAME	MAIL CODE
1. ERB ENFORCEMENT SPECIALIST	Carol Ropski_____	<u>SE-5J</u>
2. ERB ON-SCENE COORDINATOR	Steve Faryan	SE-5J
3. EESS SECRETARY	<u>Akimi Cheng</u>	<u>SE-5J</u>
4. ORC STAFF ATTORNEY	Tom Krueger_____	<u>C-14J</u>
5. EESS SECRETARY	<u>Akimi Cheng</u>	<u>SE-5J</u>
6. EESS SECTION CHIEF	<u>Bill Messenger</u>	<u>SE-5J</u>
7. ERB BRANCH SECRETARY	<u>Cynthia Beck</u>	<u>SE-5J</u>
8. ERB BRANCH CHIEF	<u>Richard Karl</u>	<u>SE-5J</u>
9. RETURN TO SE-5J/EESS SECRETARY FOR MAILING TO PRPs AND DISTRIBUTION OF BCC LIST.		

DATE MAILED TO PRPs: \_\_\_\_\_